

### Remarks

The present amendment replies to the Official Action mailed July 3, 2003. That action objected to the declaration. Claims 1-14 were rejected under 35 U.S.C. 102(b) as being anticipated by Frey et al. U.S. Patent No. 5,557,513 ("Frey"). This sole ground for rejection is addressed below following a brief discussion of the present invention to provide context.

Claims 1, 7, 13, 16, 17, 19 and 20 have been amended to be more clear and distinct.

Claims 1-20 are presently pending.

### The Present Invention

The present invention relates generally to improved methods and apparatus for storing retail performance metrics (RPMs) of activities which take place at a point of sale (POS) terminal, and more particularly, to such methods and apparatus wherein the RPMs are associated with individual entries within a transaction category or a time type category.

In one aspect of the present invention, the RPM is determined by recording the time the POS system waited for an input event during a retail transaction. For example, the input received by the system may be the scan of an item, the weighing of an item, tender of payment, and the like. An entry record indicative of input is stored. An RPM record, including the time and type of input recorded, is also stored. The RPM record is then associated with the corresponding entry record. Entry records and RPMs are recorded for a plurality of input events which occur during a transaction. Thus, the techniques of the present invention allow a retailer to accumulate a detailed transaction log of all the events occurring at each POS terminal in order to identify deficiencies and potential problems. For example, a record of a series of scans requiring an inordinate amount of time may indicate a cashier who needs more training or a scanner which needs cleaning or repair.

### The Oath and Declaration

The Examiner is thanked for the courtesy of a telephone interview on September 30, 2003. The objection to the declaration was discussed. The undersigned informed the Examiner that a proper declaration was submitted on December 19, 2000 with the inventors' signatures appearing on separate sheets, and that he believes one of the signatures was overlooked. The Examiner agreed that this oversight was possible. Accordingly, the undersigned requests that the declaration be reviewed to insure that the signatures of both inventors were received. An additional copy of the declaration can be provided if requested.

### The Art Rejections

The Official Action rejected claims 1-20 under 35 U.S.C. 102(b) as being anticipated by Frey. This rejection is traversed as not supported by the relied upon art. As addressed by the Federal Circuit, anticipation under Section 102 can be found only if a reference shows exactly what is claimed. Titanium Metals Corp. v. Banner, 227 U.S.P.Q. 773 (Fed. Cir. 1985). The relied upon art does not teach and does not render obvious the claims as presently amended.

Frey is entitled "Checkout Lane Alert System and Method for Stores Having Express Checkout Lanes." Frey describes a system which monitors the number of shoppers entering and leaving a store. Using statistical modeling techniques and data gathered earlier, Frey's system then predicts shopper traffic at checkout lanes in the store. Thus, a store's manager can assign more cashiers to the checkout stations in a preemptive move, rather than allowing lines of waiting customers to grow. While Frey does indicate that the POS system registers each transaction and records the time of each transaction, Frey explicitly states that a transaction is defined as "a single buyer checking out through a checkout lane, and not by the number of purchases" by each buyer. Frey, col. 6, lines 3-6. In other words, Frey appears to be concerned only with the fact that a

particular transaction, a single buyer checking out, has occurred, and not with events that occur during a transaction.

In contrast to Frey, the present invention provides techniques for storing (1) an entry record indicative of an input event and (2) a retail performance metric (RPM) record of both the type of event and the elapsed time waiting for the event to occur. The RPM record is then associated with the entry record. These records stored are associated for each event of a plurality of events occurring during a transaction at a POS station. See amended claim 1, for example, which recites the steps of:

receiving an input indicative of an event occurring at a point of sale (POS) station during a transaction;

recording an entry record indicative of the input received at the POS station during the transaction;

*recording a retail performance metric record, the retail performance metric record being a function of the retail performance metric type and the time elapsed waiting for and receiving an input;*

*associating the retail performance metric record with the entry record; and*

*repeating the steps of receiving, recording the entry record, recording the retail performance metric record, and associating for a plurality of events during the transaction* (emphasis added)

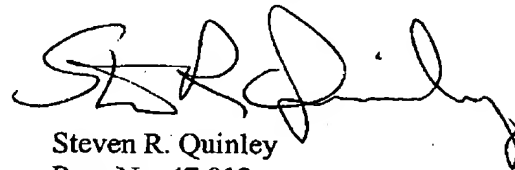
Thus, for example, a POS station may store an entry record indicating that an item was scanned. A retail performance metric record is then recorded indicating the retail performance metric type and the time waiting for the scan. The retail performance metric record is then associated with the entry record, allowing the retail performance metric record to be linked to a particular event. These records are then available for store management to review and analyze. Frey, in contrast, simply records the time at which a customer checks out.

Nothing in the cited reference indicates a recognition of the problems addressed by the present invention or a solution thereof. To sum up, the claims of the present invention are not taught, are not inherent, and are not obvious in light of the art relied upon.

Conclusion

All of the present claims defining over the relied upon art, prompt allowance of the claims is in order.

Respectfully submitted,



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